

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 96-196
Table of Allotments,) RM-8878
FM Broadcast Stations.)
(Georgetown and Garden City,)
South Carolina))

REPORT AND ORDER
(Proceeding Terminated)

Adopted: August 27, 1997;

Released: September 5, 1997

By the Chief, Allocations Branch:

1. At the request of Coastline Communications of Carolina, Inc. ("petitioner"), licensee of Station WWXM(FM), Channel 249C1, Georgetown, South Carolina, the Commission has before it the Notice of Proposed Rule Making, 11 FCC Rcd 11582 (1996), proposing the reallocation of Channel 249C1 from Georgetown to Garden City, South Carolina, and the modification of Station WWXM(FM)'s license accordingly.¹ Petitioner filed comments in support of the proposal reaffirming its intention to apply for the channel, if reallocated to Garden City. No other comments were received.

2. The proposed reallocation of Channel 249C1 from Georgetown to Garden City, South Carolina, was filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permit the modification of a station's license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990) ("Change of Community"). In the Notice, petitioner was requested to provide specific information to demonstrate "whether Garden City has any

¹We note that on January 17, 1997, petitioner filed an application (BPH-970117IC) to modify Station WWXM(FM)'s license. On May 20, 1997, petitioner requested an assignment of Station WWXM(FM)'s construction permit and license from Coastline Communications of Carolina, Inc. to Root Communications, Inc., which was granted on July 8, 1997, and is pending consummation.

commercial, social, economic, cultural, or religious organizations, municipal services, or governmental units that identify themselves specifically with that locality." In response to that request, petitioner states that Garden City has numerous commercial organizations that identify themselves specifically with that locality. Petitioner submits a page from the local telephone book listing Garden City Supermarket, Garden City Motor Inn, Garden City Realty, and Garden City Furniture, among other commercial entities. Petitioner further states that Garden City has formed a merchants' association together with its neighbor, Surfside Beach. In addition to these commercial entities, Garden City has a religious organization, fire department and a counselling center, which identify themselves as Garden City Baptist Church, Garden City Fire Department, and Garden City Counselling Center, respectively. Lastly, petitioner submits a map demonstrating that Garden City appears as a discrete community on maps of South Carolina. Therefore, petitioner urges that the Commission find that Garden City is an identifiable community, distinct from Myrtle Beach, and grant its request to reallocate Channel 249C1 from Georgetown to Garden City, South Carolina.

3. Based on the information before us, we find that petitioner has sufficiently demonstrated that Garden City is a "community" for allotment purposes. Therefore, we believe the public interest would be served by reallocating Channel 249C1 from Georgetown to Garden City, South Carolina, and modifying Station WWXM(FM)'s license accordingly. Specifically, the reallocation would result in a preferential arrangement of allotments pursuant to the Commission's change of community procedures. See Change of Community, supra. Under those procedures, we compare the existing arrangement of allotments with the proposed arrangement of allotments using our FM allotment priorities.² See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982).

4. In making this analysis, we note that Garden City (population 6,305)³ would receive a first local service which triggers priority (3). On the other hand, the reallocation would not deprive Georgetown (population 9,517) of its sole local service, since Stations WSYN(FM), WSCA(FM), WGTN(AM) and WLMC(AM) would remain licensed to the community. Both Garden City and Georgetown receive five or more reception services and are considered to be well-served. As stated in the Notice, we recognize that neither Georgetown nor Garden City is located within an urbanized area. However, an engineering analysis has revealed that Garden City is located 2 kilometers (1.2 miles) from the Myrtle Beach Urbanized Area, and that Station WWXM(FM) presently provides a 70 dBu signal over the entire Myrtle Beach Urbanized Area. Since Station WWXM(FM) would continue to provide the entire Myrtle Beach Urbanized Area with a 70 dBu signal, a Tuck analysis is not necessary to show that Garden City is sufficiently

²The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. [Co-equal weight given to priorities (2) and (3).]

³All population figures are taken from the 1990 U.S. Census.

independent of Myrtle Beach to merit a first local service preference.⁴ This is due to the fact that Station WWXM(FM) is not "moving into" the Myrtle Beach Urbanized Area, but is already there. See Boulder and Lafayette, Colorado, 11 FCC Rcd 3632 (1996); and East Los Angeles, et al., California, 10 FCC Rcd 2864 (1995). Moreover, our engineering analysis has also determined that since Station WWXM(FM) does not seek to relocate its transmitter site, the reallocation will not result in any gain or loss areas, and the station will continue to provide Georgetown with city-grade (70 dBu) coverage.

Technical Summary

5. An engineering analysis has determined that Channel 249C1 can be allotted to Garden City in compliance with the Commission's minimum distance separation requirements with a site restriction of 3 kilometers (1.9) northwest at petitioner's licensed site.⁵ In accordance with Section 1.420(i) of the Commission's Rules, we modify Station WWXM(FM)'s license to specify operation on Channel 249C1 at Garden City, South Carolina, as its new community of license.

6. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective October 20, 1997, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

| <u>City</u> | <u>Channel No.</u> |
|-----------------------------|--------------------|
| Georgetown, South Carolina | 229A, 293C2 |
| Garden City, South Carolina | 249C1 |

7. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Coastline Communications of Carolina, Inc. (or Root Communications, Inc.), for Station WWXM(FM), Georgetown, South Carolina, IS MODIFIED to specify operation on Channel 249C1 at Garden City, South Carolina, subject to the following conditions:

⁴See Huntington Broadcasting Co. v. FCC, 192 F.2d 33 (D.C. Cir. 1951); RKO General, Inc., 5 FCC Rcd 3222 (1990), and Faye and Richard Tuck, 3 FCC Rcd 5374 (1988). See also Headland, Alabama and Chattahoochee, Florida, 10 FCC Rcd 10352 (1995).

⁵The coordinates for Channel 249C1 at Garden City are North Latitude 33-35-27 and West Longitude 79-01-53.

(a) Nothing contained herein shall be construed as authorizing any change in Station WWXM(FM)'s license, BLH-940922KB, except the channel as specified above. Any other changes, except for those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BLH-940922KB, except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, **if the request is granted**, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Coastline Communications of Carolina, Inc. (or Root Communications, Inc.), licensee of Station WWXM(FM), is required to submit a rule making fee in addition to the fee required for the application to effect the change in community of license.

9. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this Report and Order by Certified Mail, Return Receipt Requested, to the following:

Coastline Communications of Carolina, Inc.
P.O. Box 2908
Myrtle Beach, South Carolina 29578
(Licensee of Station WWXM(FM))

Root Communications, Inc.
P.O. Box 2860
Daytona Beach, Florida 32120-2860
(Assignee of Station WWXM(FM))

Naomi S. Travers
1801 K Street, N.W.
Suite 400K
Washington, D.C. 20006-1301
(Counsel for Root Communications, Inc.)

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau